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NASA Procedural Requirements

COMPLIANCE IS MANDATORY**NPR 2081.1**Effective Date: February 17,
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Subject: Nondiscrimination in Federally Assisted and Conducted Programs**Responsible Office: Office of Diversity & Equal Opportunity**[| TOC](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) | [AppendixA](#) |
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CHAPTER 5. Enforcement Action Pursuant to the Civil Rights Act of 1964 (Title VI), the Education Amendments Age of 1972 (Title IX), the Rehabilitation Act of 1973 (Section 504), and the Age Discrimination Act

5.1. Violation Determination

5.1.1. In general, if OEOP determines that the recipient has violated one or more provisions of the civil rights laws, and the recipient is unwilling to correct the violation(s), OEOP will promptly issue a Violation LOF specifying the factual findings and the legal basis for the violation(s).

5.1.2. OEOP will again attempt to negotiate a corrective action agreement. If OEOP is still unable to obtain voluntary compliance, OEOP will move immediately to enforcement by either initiating administrative enforcement proceedings or referring the case to DOJ. OEOP can also move immediately to defer any new or additional Federal financial assistance to the recipient, and will begin administrative enforcement proceedings to terminate existing Federal assistance.

5.1.3. The determination of the appropriate resolution of the complaint must be approved by the Assistant Administrator, OEOP, or designee. The Violation LOF will be prepared with appropriate consultation with the Office of General Counsel (OGC) and reviewed and signed by the Assistant Administrator, OEOP.

5.1.4. The draft Violation LOF, and other documentation as appropriate, will be shared electronically with the OGC and any other NASA office deemed appropriate by the Assistant Administrator, OEOP. It is anticipated that this consultation process will be completed within 30 days. As soon as concurrence is obtained, OEOP will issue the LOF.[\[35\]](#)

5.1.5. If OEOP is unable to achieve voluntary compliance, NASA will initiate enforcement action. OEOP may:

- a. Initiate administrative proceedings to suspend, terminate, or refuse to grant or continue NASA financial assistance to the recipient; and
- b. Refer the case to DOJ for judicial proceedings to enforce any rights of the United States under any law of the United States.

5.2. Initiating Administrative Enforcement Proceedings Where Appropriate

5.2.1. If administrative proceedings are initiated, and the recipient has been notified in writing of NASA's intention to impose sanctions, including terminating, deferring, or refusing to grant or continue assistance because of failure to comply, the notice of imposition of sanctions and Notice of Opportunity will be issued within 30 calendar days after notification by OEOP that negotiations have been unsuccessful.

5.2.2. Under NASA regulations, no order suspending, terminating, deferring, or refusing to grant or continue Federal financial assistance shall become effective until:

- a. The Assistant Administrator, OEOP, has advised the applicant or recipient of its failure to comply and has

determined that compliance cannot be secured by voluntary means OEOP will:

- (1) Notify the recipient of its failure to comply and of the action NASA will take to affect compliance;
- (2) Provide the recipient at least 10 days from the mailing of the notice before taking action; and
- (3) During the 10-day period, NASA may make additional efforts to persuade the recipient or other person to comply and to take such corrective action, as may be appropriate.

b. There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by NASA regulation;

c. The action has been approved by the Administrator pursuant to 14 CFR Part 1250.109(e); and

d. The expiration of 30 days after the Administrator has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances, and the grounds for such action (Pub. L. 88-352, Title VI, Sec. 602, July 2, 1964, 78 Stat. 252.)

5.2.3. If an administrative proceeding is initiated, a team will be established to prosecute the case.

5.2.4. Administrative enforcement proceedings will follow the procedures set forth at 14 CFR 1250, §§108-109.

5.3. Referral to the Department of Justice Where Appropriate

5.3.1. If there appears to be a failure or threatened failure to comply, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance may be effected:

a. By the suspension or termination of or refusal to grant or to continue Federal financial assistance; or

b. By any other means authorized by law. Such other means may include, but are not limited to:

(1) A referral to DOJ with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking; and

(2) Any applicable proceeding under state or local law.

c. If post-LOF negotiations do not result in an acceptable agreement, the Assistant Administrator, OEOP, will notify the NASA Administrator that the office will issue a letter informing the recipient that NASA is recommending enforcement action by DOJ.

5.3.2. OEOP will consult with DOJ as appropriate.

5.3.3. The target date for completion of referral to DOJ is 30 days after the office has notified the NASA Administrator that negotiations have failed.

5.4. Moving to Enforcement for Failure to Implement Agreement

5.4.1. Where the recipient has failed to implement its corrective action agreement, it is not necessary to prepare a LOF if findings on the underlying violation have already been made.

5.4.2. Whenever OEOP determines that voluntary compliance cannot be achieved, it will notify the recipient and prepare a brief information memorandum, including a summary of the recipient's Federal financial assistance, for the Assistant Administrator, OEOP.

5.4.3. If deferral is contemplated, the recipient must be notified 30 days before a notice of an imposition of deferral can be issued. The documents provided to the Assistant Administrator, OEOP, may be supplemented by a detailed description of how the recipient has failed to implement its agreement.

5.4.4. These documents shall be shared electronically with the Assistant Administrator, OEOP. That office will provide information to the OGC, as appropriate.

5.5. Moving to Enforcement for Denial of Access

5.5.1. Where the recipient has denied access to information, no LOF is necessary to proceed to enforcement. However, if deferral is contemplated, the recipient must be notified 30 days before notice of an imposition of deferral can be issued.

5.5.2. As soon as OEOP concludes that the recipient will not voluntarily provide access, it will notify the recipient of OEOP's determination and OEOP's intention to recommend enforcement.

5.5.3. OEOP will then prepare a draft letter, which may include notice of NASA's intention to impose deferral, and a

brief information memorandum.

5.5.4. These documents shall be forwarded to the Assistant Administrator, OEOP. A Notice of Opportunity for Hearing will be issued within 30 days of the decision to move to enforcement.

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